

Service Associates, Inc.
308 South Marshall Street
Winston-Salem, North Carolina 27101

December 6, 2012

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

CC Docket No. 02-6

Re: Request for Review of
USAC-SLD Funding Commitment Denied

To whom it may concern:

This Request for Review is filed on behalf of the applicant. My contact information is as follows:

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Applicant Charles Hyman, Assistant Superintendent
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Service Associates, Inc. is an E-rate support services company
providing services exclusively to E-rate applicants.

This Request for Review requests further consideration of the following USAC-SLD decisions:

Funding Commitment Decision Letter – Funding Year 2009	
Date of Letter	October 29, 2012
Applicant	Florence County School District 2
Billed Entity Number	127212
Form 471 Application Number	682814
Funding Request Numbers	1866285 1866330

The “Funding Commitment Decision” for each FRN is: “\$0.00 – Bidding Violation”.

The “Funding Commitment Decision Explanation” given in the Funding Commitment Decision Letter for FRN 1866285 is: “The FRN is denied due to a competitive bidding violation. The scope of your original contract FCSD2-FY2006-001B changed in FY 2009. Specifically the wireless and switching services requested in FRN 1866285; and the procure service requested in FRN 1866330 were not being covered under the original contract FCSD2-FY2006-001B. Program rules require that a new FCC Form 470 be posted to the USAC website for at least 28 days prior to renegotiating or changing the terms of the contract. Posting a new FCC Form 470 makes potential bidders aware of your desire to change the terms of your contract and allows all potential bidders the opportunity to participate in the 28-day competitive bidding process. Since you failed to post a Funding Year 2009 FCC Form 470 for these services this FRN must be denied. <><><><><> DR2: The FRN is denied because no contract was in place when the FCC Form 471 Certification was filed. Your original contract did not contain a set price or define the specific services. The quotes provided in support of these FRNS were not dated after the FCC Form 471 postmark date.”

The “Funding Commitment Decision Explanation” given in the Funding Commitment Decision Letter for FRN 1866330 is: “DR1: The FRN is denied due to a competitive bidding violation. The scope of your original contract FCSD2-FY2006-001B changed in FY 2009. Specifically the wireless and switching services requested in FRN 1866285; and the procure service requested in FRN 1866330 were not being covered under the original contract FCSD2-FY2006-001B. Program rules require that a new FCC Form 470 be posted to the USAC website for at least 28 days prior to renegotiating or changing the terms of the contract. Posting a new FCC Form 470 makes potential bidders aware of your desire to change the terms of your contract and allows all potential bidders the opportunity to participate in the 28-day competitive bidding process. Since you failed to post a Funding Year 2009 FCC Form 470 for these services this FRN must be denied. <><><><><> DR2: The FRN is denied because no contract was in place when the FCC Form 471 Certification was filed. Your original contract did not contain a set price or define the specific services. The quotes provided in support of these FRNS were not dated after the FCC Form 471 postmark date.”

Grounds for Appeal

Grounds for Appeal

The applicant followed state and local procurement policies, procedures and regulations in order to contract for the network components and associated installation services requested in each of these FRNs. The attached narratives produced for the USAC-SLD Special Compliance Review and the associated bidding and contracting documentation will show that there was a contract in place for the services requested in the two FRNs in question; therefore it was not necessary to post a Funding Year 2009 FCC Form 470 for the services.

Oddly, the Funding Commitment decision explanation for each FRN ends with the statement **“The quotes provided in support of these FRNS were not dated after the FCC Form 471 postmark date.”** Although it does not logically seem to fit into their reasoning for denial, it is not accurate either. The application was submitted just before 1 PM on February 9, 2009. Although all of the information to calculate the application was in hand at the time, the formal service provider memo quotes under the terms of the pre-existing contract pricing had not been received from the service provider. When the quotes were received on February 11, 2009 they were dated on the date that they were printed rather than on the day of the application. This was not deemed to be a problem because the quotes are part of the Item 21 Attachment (for which there was no deadline) rather than part of the application.

Attachments

October 4, 2011 Letter of Agency
October 29, 2012 Funding Commitment Decision Letter
February 21, 2012 USAC Intent to Deny Letter
February 28, 2012 Response to USAC Intent to Deny Letter
Contract FCSD2-FY2006-001B Network Technical Services Agreement February 09, 2006 and February 8, 2009 Extension
RFP FCSD2-2006-001 Network Support Services December 25, 2005

Background

The contract FCSD2-FY2006-001B provides a basis for pricing projects and services for the multi-year life of the contract but does not list specific item numbers and quantities and therefore does not have an equipment list or a face value. This type of contract is common in the institutional environments and has been routinely found by USAC to be compliant for many other applicants in FY2009 and in many other years. We can provide all other documentation of the bidding process if requested.

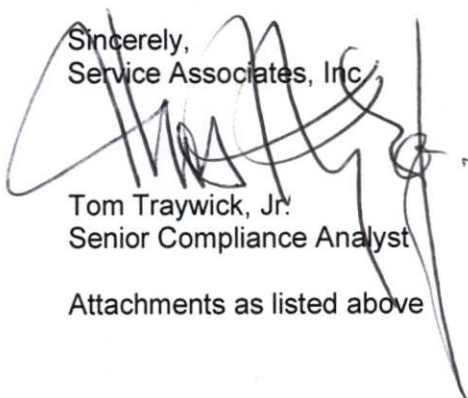
Conclusion

For these FRNs the District strictly followed their own State and local procurement policies and regulations

We believe that the continued denial of funding for these FRNs would contribute to unintended consequences of hardship and inequity for the students and teachers in this District.

We all thank you for your kind attention to this matter. Please contact me if you have any questions or need additional information.

Sincerely,
Service Associates, Inc.



Tom Traywick, Jr.
Senior Compliance Analyst

Attachments as listed above